PLon/Deptt

App F IX 4

1955 Sb
(CM)

File No 126-55

Previous References

Serial Nos. 24
40 77 78
79

Later Peferences
Om 33-56-03

GENERAL AND REVENUE SECRETARIAT

Serial Nos Five (5)

p 26(2)

Part B for April 1956

SUBJECT

Re reinstatement of Mohamed Serves Khan Ex- Bill Collector, Bellary City Municipality

To,

The Commr L S G
The Rl Commr Bellary City Mcpy
The C S-A-A

G O-No L 24-26 / dated 24 56

Observes Orders - reinstatement.

Instructions
23/5/56

Mysore Government Secretariat

[App F III 2

7052/55-6 File No of 1955-6

Serial No

To

The Commissioner LSG

Letter No LLC 2183/54-5 dated 17-12-55 forwarding the records relating to the re-instatement of Md Sarvar Khan, Ex Bill Collector, Bellary Municipality.

Submitted

The file relates to the re-instatement of Md Sarvar Khan Ex-Bill Collector, Bellary Municipality

Sri Md Sarvar Khan has been dismissed for temporary misappropriation of municipal money by the municipal Commissioner ~~on 29-7-54~~ in his order dated 29-7-54 the History of the Case is summarised in the Commissioner's Report dated 18-9-54 addressed to the Regional Inspector

Key K

Key H

2 The Official had appealed to the Court of Law against the order of the municipal Commissioner It is stated ~~that the appeal has been~~ that he has been acquitted by the Court the Official has represented to reinstate him the Appointment Committee of the Bellary Municipality has approved the re-instatement, as he ~~appeal has been~~ honourably acquitted by the Court

Key G

Key G

Note—Contd Sheet

Reinstatement of Sri MD Saleem Khan - Bellary Municipality

File No 708'3/ml of 195

Mysore Government Secretariat

Serial No

3) The records do not contain the orders of the Court nor the judgement copy of the Court appears necessary

4) Bellary Municipality has become a City Municipality now & hence as per Accordingly to the Mysore City Municipalities Act, the municipal Commissioner is competent to dismiss the subordinates (Section 248 (c)) An appeal lies to the Govt against the order of the dismissal as laid down in Section 249 of C M Act But there is no Govt in Bellary Municipality at present ~~Hence He~~ he for orders

1A

4/11 5) Re 'A' the powers of the Govt are exercised by the special officer the question for consideration is whether he may be reinstated, as he is honourably acquitted, ~~as~~ having regard to the resolution passed by the Govt when the officials are dismissed, this cannot be passed reinstating them without the consent of the P S C In this case, the guilt was not proved

Reinstatement of Dr M Sarwar Khan - Bellary Municipality [App F III 2]

Mysore Government Secretariat

File No 7053/Mis 3701/pf 195

Serial No

and he is acquitted In such a case, the question as to whether it is necessary to consult P S C or not has to be decided the R & P S section may be consulted

The SP

6 First of all, get a copy of the judgment from HL ~~Court~~ Comr Bellary 1871

7 Draft letter is put up 8/1611 M 2.4/1

8) Done 27/1

To

The HL-Comr Bellary thro SPI officer

Issued No L13910/eH 1265 5-40 4930 1/56

Request to obtain and forward a copy of Judgment of the court

From

The HL Comr, Bellary Letter No RC 21-3515/57 dated 7/2/58 forwarding a copy of Judgement

9) A copy of the judgment (Reg V) is for kind perusal and orders with reference to Para 6 above

10) The Learned Magistrate 24/2 M 2.5/2

Reinstatement of M Sarwar Khan - Bellary Cit Mutty

File No 7083/mc 870/mc 195

Mysore Government Secretariat

Serial No

has concluded his judgment the following words

In the Result, I cannot but come to the irresistable Conclusion that the accused is not at all guilty of the offence under section 409 IPC with which he is charged I therefore find him not guilty of the said offence acqmt him honourably under Section 258 (1) Cr PC of the said offence and direct that he be set at liberty as there is nothing to Suggest any kind of moral delinquency on his part as disclosed by the — evidence"

11) In view of this judgment it goes without saying that the appeal must be taken in duly immediately the Govt will be informed accordingly (H) 25/2

Copy Encl dtd)

12) The Appeal will be Sent Sealed

13) Separate acts has to be taken by the Dist Officer, Bellary City Mutty, to take Action departmentally to set right the slackness in the procedure which seems to have occurring in the Mutty at the

10 LSCA 18756 27 FEB 1956 EDUC

0960—GPB—P Z S 130 000—21-o 55

Re-instatement of Mohamed Sirwa

Mysore Government
Secretariat

File No Secy Dept-M-4-[App F III 2
of 1955 5

Serial No

the level of the Subordinate Courts

14) The Govt agrees to this aspect of the Case in better at some language

Min Under Secy 4/3/56

15) 5/3/56

16) Submit draft two drafts for approval

16/3 Mr 18/3 Dy 21/3

Do The Comm for d/s

The Pl Comm Secy Dept thro' the Special Officer

The Collector of DD

L 24-28/CR 126-55-58 Dy 2 6 56

Issue Orders — Issue Notes

Do

The Pl Comm Secy Dept thro the Special Officer

Issue Certain authentic Copies

13/4

Second draft is now framed

Note—Cont'd Sheet

File No of 195

Mysore Government
Secretariat

Serial No

50—GPB—P Z S 130000—21-5 5

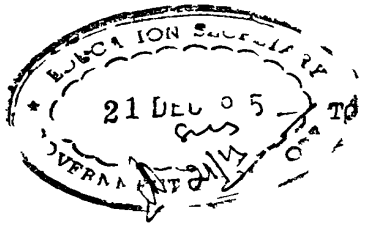
No El C 2183/54-55

OFFICE OF THE COMMISSIONER FOR LOCAL SELF GOVERNMENT IN MYSORE

Bangalore, dated, 17th December 1955

7053

FROM



SRI M K APPAJAPPA I A S,
Commissioner for Local Self Government
in Mysore, BANGALORE

CR/126-55-24

SRI P M KRISHNAN I A S,
Secretary to Government, Education and
Local Self Government Departments,
BANGALORE

SIR,

SUBJECT - Appeal petition of Sri Unnamed Server, Ex Bill Collector

---

In forwarding a copy of letter C 17906/54 B9 together with a copy of its enclosure received from the Regional Inspector of Local Boards, Bellary, on the above subject, I write to state that according to Rule 8 (1) of the statutory Rules relating to the appointment and punishment of the officers and servants of the Municipal Councils, the appeal shall lie to the Commissioner for Local Self Government (Inspector of Municipal Councils and Local Bodies) Since the Bellary Municipality is now converted into a City Municipality and as I have no jurisdiction over the staff working in the said Municipality, I forward the entire file of correspondence, with the Service Register of the official for orders of Government in view of the recommendation of the Council for reinstatement of the official as he has been acquitted in the case filed against him

Yours faithfully,

(M K APPAJAPPA)
COMMISSIONER

Copy of letter No C 17906/54 B9 , dated 11th October 1955, from the Regional Inspector of Local Boards, Bellary, to the Commissioner for Local Self Government in Mysore, Bangalore

---

SUBJECT - Establishment - Bellary Municipality - Appeal of Sri Mohammed Servar, Ex-Bill Collector Further report - Submitted

---

REFERENCE - Your memo El C 2183/54-55, dated 29-9-55

With reference to your memo cited, I write to state that I have submitted my report in the matter already in my letter of even no , dated 24-8-1955 addressed to you A copy of the same is enclosed herewith

I request you to kindly pass orders in the matter ~~xxxx~~ at an early date

---

" COPY "

FOR COMMISSIONER

Copy of letter No 17906/54 B 9 dated 24-8-55 from the Regional Inspector of Local Boards, Bellary, to the Commissioner for Local Self Government in Mysore, Bangalore

---

Sub Establishment - Bellary Municipality - Appeal of Sri Md Server, Ex-Bill Collector - Submitted for early orders

Ref 1 Appeal petition dtd 10-1-55 from Sri Md Server Ex-Bill Collector, Bellary Municipality
2 Your memo B1 C 2193/54-55 dated 15-1-55 and letter of even No dated 17-1-55
3 Roc C1 3515/54-G2 dated 21-2-55 30-7-55 from the Municipal Commissioner, Bellary

---

I enclose herein the appeal petition of Sri Md Server Ex-Bill Collector of Bellary Municipality with a copy of the letter Roc C1 3515/54, dated 21-2-55 from the Municipal Commissioner Bellary, wherein he has offered his remarks on paras 5, 6 and 8 of the Judgment in C No 465/1954 dated 17-12-54 of the First Class Magistrate, Bellary

According to Rule 8(1) of the Statutory Rules(under the District Municipalities Act, 1920) relating to the appointment punishment of officers and servants of the Municipal Councils, appeal against all orders of dismissal discharge of bill collectors shall lie to the Inspector of Municipal Councils and Local Boards

The Municipal Commissioner, Bellary, has forwarded the resolution of the Appointment Committee recommending reinstatement of the appellant as he is honourably acquitted by the Court, required under Rule 12(2) of the Statutory Rules relating to the appointment and punishment of the officers and servants of the Municipal Councils (vide P 317 of the Statutory Rules) A copy of the above resolution is enclosed herein

I request you to kindly pass early orders in the matter, as the individual is without an appointment

---

/ True copy /

B M Das Gupta

For Regional Inspector of Local Boards

9/11/55

True copy of Appo ntment Committee Resolution NO 3, dated 27-7-5

Read appeal dated 1-9-54 from Sri Md Server Ex.Bill collector against the orders of dismissal pased by the Commissioner in his prope dings Rc 3515/54 dt 29-7-54

2 Office note thereon requesting the committee to forward the appeal with its views

3 Read appointment Committee resolution NO 3, dated 11-4-55 and (2)(4) Chairman's note d e 21-4-55 placing the subject bef re the Appointment Committee

Resolution —

Resolved to reinstate as he is honourably acquitted by the court Appeal is recommended to restore him from the date of dismissal

/True copy/

For Regional Inspector of Local Bds

dsc 25/8

Comm o 1 /F i 1 -c-1 4 m o c i f el
oll n' f l m, l o u n e i al I nct r o Local
ar s, 1 m

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s A - m - v - - ll-coll c m - A t t e
or e s o is l - Report - s r i te

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e c o 1c7 7/ , e 11-c-

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w c i c er, cl r r i n l t r n f proceedin s oc o
1 1 / t 2 -c-

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s c e in t re o o e Of icer

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an lo e erio l nnector o Local o ls, ell n, el to ice
Police a o ities for inve t tion and report

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in t s o ce e o cc o 1c/ l el c-c- 4

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re 1)

2 Revenue Officer - t r

3 Jacob Abdul Aziz Sg th i tive Doctor Knot ...ra r Bella r - ...t re...rc to e tical er o l s silleon s du ne October 53 to re ...

4 - ouncilloor ...i A Fiu...apr...ne ...r ...h rorals to t e ...i ...r...ncia...ppr ...rincipal co...illoor ...i charge o his ...cities s ill-Collector ...

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As per ...s explanation, 15-7- A was fixed for exa...n per the above witnesses as ...ed by t e Bill-Collector statements from ...e persons cited by ...e Bill-Collector were recorded in the presence o t...e Com...issio...er on 15-7- 1 19-7-54 ...d 20-7-54

The ...st o the statements recorded from t e above persons ...e ...ed below ...ch separately -

1 S A E E C SRI V ... IPPIS A dated 1 -7-54

"I know ill-Collector Ba Server for the las 10 years I know ...m ...ork as ill-Collecto...nder ...e for t...e pas ...years there as been no complaints again t him Previous to 19...- 3 his collecti...n wor was continuously good e was also given bonus on ...years for his good collection ork I ...o s...y do in tel...s to ...ower ...t circ...stances le te...por ...ily ...appropriate ...n ...ipal ...nds referred to ...n t...e ...rge fra...ed a...n t...im"

2 TE...T C ... AIT A I A IZ ... ...ATED 15-7-5

"I ...no... ...ver, ill-collector, Bella ...un capelity ...t...e last 3 or 4 ...ears ...e is living in Soul ...azar ...e ...v... ...real ill 3 ro... ...t ch...ld I ...xxr ...ave ...e ...no... ...e was ...ill ...er r ...ma disertm ...e was under ...e trea...ent for ...a s ...a...l ...en ...no...life ...e also ...e...ine fro... ...eve ...bout t...e s...e ti...e ...nd I ...ave ...elicine ...or ...ds "

3 S A L ... ...S... IA A ...T AFFA A ...ED 19-7- 4

"I know...d Server since ...n...c...ldhood ...s c...aracter is good ...ue to ...a...l difficulties ...e ...s sapproprieted t...e aroun...e ...s rever ...n...to be o...stu...character at any time previously ...ve ...ecia...co...rac...o...o...is unicipality over 20 ...ars ...nd I ...e...elect...a vo...illor ...o...t...e last 5 or ...e ...ars"

4 ...A ... C SRI A FOR AFFAC...A ...AR ...A ...ED 19-7-54

"I know...d Server fro... ...s ...oodhood as ...e was a st...dent ...o...re...c I ...n serv...e as Science Assi...t...o St John's ...f...e ...ool, ...ll...r ...e co...es from a ver poor famil ...is ...c...rac...e...a...ct, so far as I kno..., a ...ever good I had ...l...g opportunit...to ...a...lis...ork, ...en as a Co...mi...llor fr...1947 to 19...I ...e ...k...was, to m...knowledge I can te...if ...a...ques...i...stem ...r If ...e was served from t...e pati...o...ones , i...f...r ...r...l ...c reasons ...e...on ...is ...er...rol"

...m ... ... A ... SA...I ... ... A ...
20-7- 4

"... ...l-collec...r ...e ...ver...on t...l ...ra...t ...o...f 10 ...ars ...t ...a...c...et t... ...l ...e...arc...o...e ...s ...as attached i t ...o...e...n ...st...r 1 3 ...e ...s admitted i...o t...e end ...f...i...o...f l ... ...o ...ecovered ...o is ...nr...o 1 ...l...n ...o is ...r poor c...rcu...ces"

...e ...l ...t... ...o... ...e ill-collector, ...t ... ...sapprop...iate t ...l...e ...o... ...s ...e ...l... ...., ...e ...e accepte...

[illegible] ...tion ... [illegible] ...ly ...ed over ... ...ever ... ...te ... ...ncase ... ...rc ... ...ers ... ... in ... ...as ... ...en ... ...y ... ...cred ... ...r ... ...g ... ...r co ... ...ct ... ...ject ... ...e ... ...trouble ... ...ll ... ...t ... ...sic- ...ess ... ...i ... ...e ... ...ag ... ...e ... ...ter ... ...i ... ...circ ... ...nces ... ...it ... ...s ... ...l ... ...rir- ...c ...circ ... ...ances ... ...at ... ...ls ... ...t ... ...r ... ...t ... ...ur ... ...t ... ...e ... ...est ... ...e ... ...i ... ...e ... ...ls ... ...e ... ...e ... ...-...-... 1 - -04 ... ...t ... ...e ... ...r s- ...ap ...on ...ri ...te ... ...e ... ...p ... ...ar ... ...e ... ...r ... ...e ... ...a ... ...n ...t ... ...r The ...ovn ... ...l ... ...o ...fered ... ...m ... ...o ...s// ...t ... ...a ... ...sion ... ...e ... ...as ...ro ...t ...pellable ...a ...t ...on ... ...o ...m ... ...o ... ...er ...one ...e ...as ...i ... ...ed ... ...r ...ce ... ...c ...m ... - - ...4 ...e ...e ...flo ... ...ne was ...ent ...en ...s ...re ...i ... ...o ...ice ...roce ...ers ...or ...o 1 51[illegible]/5 ...o -/- ... ...i ...e ...ill ...ol ...com ...pre ...en ...ed ...o ...reel ...co 1- - 4 ...o ... ...i ... ...o ...l ...l ...e ...o ...n ...m ...one ...ion , ...irom ... ...i ...c ...n ... appeal ...e ...m ...el ...o -

(i) ...t ... ...or ... ...o ...m ...s ...o ...r ...ll ... ...nici- ...r ...l ...w ...o ... 1 / ...e ... 2 -7-[illegible] ...is ing him ...ro ...serv ...ce

(ii) ...i ...s ...ore ...m ...l ... ... - -...t ...i ... ...ole ...ction ...m ...o ...rc ...t ...ion ...le ...ve ... ...i ...elig ...le ...o ,

(iii) ...e ...v ... ...l ...i ...e ... ...e ...ar ...ill ...ro ...xxxxxx ...des ...rection ...and ...ru ...o

...an ...e ...l ...is ... ...les ...arpeal ...e ...le ...conv ...e ...n ... ...nd ...nou ...co ... ...co ...ruct ...facts ...a ...figures ... ...e ...p ...s ...u ... ...e ...ll- ...olle ...tor ...in ... ...appeal ... ...ve ...be ...n ...full ... ...is ...ed ...q ...o ...e

I ...e ...i ... ...ro ...il ...vour ...l ...oc ...o 13707/64 ...o ...r ...e 11- -5 ...to ...ou ...e ... ...t ...e ...co ...necte... records Roc ...o 3515/64 ...con ...aining 104 ...names ...e ... ...service ...e...is ...er of the individual I ...also ...forward ...le ...c/it ...t ...e appeal of Sri ...Id ...server and request ...you to please ...forward ...t ...e appeal to ...t ...e ...orm ...sioner for Local Self Government in Mysore, Bangalore with ...your ...remarks for final disposal the receipt of the file and Service Register may kindly be acknowledged and to return ...t ...e records ...w ...en done ...ith

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/ True copy /

s/ [illegible]

or Regional Inspector of
Municipal Councils Local Boards

IV - 15 11

M G S App F G 3]

MYSORE GOVERNMENT
SECRETARIAT

No L 13910/CIT 126-15-40
D 20-1-56

(Continuation sheet draft form)

The Secretary to the Govt of Mysore, Revenue Department, Bangalore

Sir,

Subject:- Appeal petition of Sri M.D. Seshan - Ex Bill Collector

Ref your letter No E1 C 2183/54 dated 17-12-55 from the Commissioner and letter No C 17906/54 B 9 from the Director of Local Boards Bangalore to the Commissioner dtd & Letter No RC C1/3578 dated 18-9-54 from the Commissioner, Bangalore Rural

With reference to the above, I am directed to request you to ~~obtain and~~ forward a C/y of the judgement of the Court ~~in this behalf~~

I have the honour to be,
Sir,
Your most obedient servant,

WD 0258—GPB—PZS 1 20 000—1 7 55

7053

CM 126-55-71

8701

17 FEB 1956
MUNICIPAL BRANCH

From

Sri S G SAMPATH IYENGAR
M B B S , D P H ,
Municipal Commissioner Del,
B E L L A R Y

To

The Secretary to Government
of Mysore, Education &
Local Self Government Depts
B A N G A L O R E

Through The Special Officer,
Bellary City Municipality,
Bellary

16 FEB 1956
GOVERNMENT OF MYSORE

Rc C1-3515/54 Dated 7-2-1956

RB 16/2

Sir,

Appeal Md Rs 8 ans 16/2

Sub - Appeal petition of Sri Md Server - Ex-Bill Collector - Copy of the Judgment of the Court - Furnished

***

Ref - Your letter No L 13910/CM 126-55 -40 dated 30-1-56

With reference to your above letter I write to enclose herewith a copy of the Judgement copy of the Court and request the favour of early orders

Sd S G Sampath Iyengar Commr Del

Yours faithfully,

T K Kannan 16/2

(T K KANNAN)
COMMISSIONER

/Submitted/

T S Ramachandra 12-2

SPECIAL OFFICER

In the Court of the First Class Magistrate, Bellary.

Present:- Sri B L Basavana Gowd, B A , B L ,

C C 465 of 1954

Complainant : S I of Police Cowl Bazaar, Bellary

Accused : Mohommad Server Saheb, son of MoHadeen Sahib, Bellary

The ~~cause~~ case coming on for final hearing on 8-12-54 and having stood over for consideration till this day the Court delivered the following

JUDGMENT

The S I of Police Cowl Bazaar has charge sheeted the accused for having committed Criminal Breach of trust punishable under Sec 409 I P C alleged to have been committed by him between the period from 14-3-1954 to 5-4-1954 in Bellary Cowl Bazaar-

2. 8 witnesses were examined by the prosecution The prosecution case briefly stated is as follows:-

The accused was working as bill collector in Bellary Municipality for about 20 years, He collected house taxes of Rs 8-5-0, 16=0-0 and 5-8-9 on 14-3-1954, 28-3-54 and 5-4-1954 from P Ws 2, 3 and 1 and gave them receipts Exhibits P, 2;P,3 and P 1 respectively According to the prosecution evidence the accused paid the said amounts into the Treasury only on 14-5-54 The entries in E x P 6a to P 6 c in Challan, Exhibits O 6 wherein the accused remitted amounts are covered by receipts Exhibts P1 to P3 Exhibit P 5 is the challan Register Ex P 1 a to P 1 c are the signatures of the

are the signatures of the accused, in the Receipts Exhibits P 1 to P 3 It is therefore seen that the accused failed to remit the said three amounts on the alternate day of the week as required by G O No 1224, 28th March 1942, a copy of which is filed as Exhibit P 4 The said order among other things enumerates the duties of Tax clerk, Revenue Inspector, Revenue Officer and Commissioner regarding supervision to be exercised over the work of Bill Collectors As seen from the evidence of P W 4 Revenue Officer of the Municipality, the Bill books of all the Bill Collectors were collected as per orders of the Commissioner on 12-4-54 During the check of the Bill Books of the accused Receipts Ex P 1 to P 3 were missing and there were no corresponding entries, in the Memorandum attached to the Bill Book in respect of the Collections covered by the ~~Bill~~ Receipts Ex P 1 to P 3 The amounts covered by these receipts were not remitted by the accused into the Treasury as required P W 4 sent a report to the Commissioner (P W 5) for necessary action against the accused

3 P W 6 sent a report to the Controller of State - Accounts Mysore marking a copy Ex P 7 to the Inspector of Police for necessary action under the signature of the Chairman of the Municipality on 15-5-1954 P W 8 the then S I of Police Cowl Bazaar Received Ex P 7 and registered a case as Crime No 72/54 against the accused He visited the Municipal Office , contacted the Manager of the Office and handed over charge of the station on 22-5-1954 P. W 7 who succeeded P W 8

P W 8 invesgated into this case seized the receipts, exhibet P 1 to P 3 arrested the accused on 29-7-54 and sent him to remand He laid charge-sheet on 30-7-54

4 P W 6 The tax clerk in the municipal office identified the signature of the accused and desposed to the fact of the accused having paid the amounts covered by receipts Ex P 1 to P 3 into the Treasury in chalan Exhibit P 6 on 14-5-54 (5) when the accused was asked to explain the circumstances appearing in the evidence against him he denied having misappropriated the three amounts collected by him and added that on account of domestic worries caused by the attack of Cholera of his eldest daughter sickness, of his wife and children, he missed to incorporate the three, anounts in the challan while remitting the collections He further stated that before handing over the bill books in the office he checked ~~his~~ The bills and noticed this mistake and thereupon when he went to remit the said amounts in question in to the treasury he was asked by the Revenue Officer, P W 4 not remit the amounts in question untill further orders After obtaining orders he remitted the amounts in to treasury on 14-5-54 He pleaded not guilty to the charge framed against him under Sec,409 I P C He further cross examined P W 4 too and did not choose to examine any witness in his behalf

6 Now the point for consideration is wether the prosecution evidence brings home the guilt of the accused beyond reasonable doubt To constitute

PTO

Criminal breach of trust there must be an entrustment, there must be misappropriation or conversion to one's own use or use in violation of any legal direction or of any legal contract and thirdly misappropriation or conversion or disposal must be with dishonest intention The learned Advocate for the accused contended that the prosecution has not proved the dishonest misapporpriation or conversion by his own use of the amounts collected by the accused as the onus of proving this essential ingredient constituting the offence of criminal breach of trust lies entirely on the prosecution He referred to the decision in A I R 1933 Calcutta 800 and A I R 1940 Madras 329 in support of his contention The learned Asst. Public Prosecutor Grade II stated that the prosecution is not bound to show precisely how the accused has used the sums of money for which he had failed to account Proceeding he argued that ordinarily the prosecution proved entrustment and failure to account and leaves the court to infer criminal misappropriation, to sustain his contention, he referred to the servation of his Lordships Justice Burn in 1936 M W N 491 The fact that the accused failed to account for the moneys which had been entrusted to him by itself could not be sufficient to show that he dishonestly misappropriated in the absence of any evidence to show that the money was utilised by him in a way which was inconsistent with the trust as held in 1933 M W 825

7. It would useful to consider whether the facts of the case at least irresistibly to the inference that the accused dishonestly misappropriated the

the sums and converted them to his own use with intent to cause wrong ful loss to the Municipality and wrongful gain to himself I am unable to see any indication to warrant such an inference being drawn agai accused from the facts of the case The facts does not ever disclose the mense-rea of the accused explained that before handing over the Bill Books he checked the bills and found out that the amounts were not remitted and volunteered to pay the sums into Treasury But he was not permitted to remit the sums into the Treasury untill further orders. He has immediately paid the amount into the Treasury on being asked to remit This shows that there was a bonafide mistake. This was perhaps due to sickness of his wife and children which must have caused him much anxiety. On the other hand the evidence of P.W 4 under whome the accused served as a Bill Collector for 6 years shows that the accused has got good record of service to his credit. The accused was also given Bonus for two years about 2 or 3 years ago for good collection work. It is very unfortunate that the authorities have not taken into consideration his past record of good service before taking any decision to institute criminal proceedings against him at the end of his long good record of about 20 years of service During examination of P.W 4 by Court he stated that the accused remitted the sum of tax Rs 2402-15-3 and 888-0-6 on 22-2-1954 and 15 3-1954 respectively collected in Ward 25 on the said dates, he collected house tax in other ward in his charge as also profession and Land Tax If the accused had any dishonest intention he could have

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the accused which is essential in a Cri

have misappropriated larger sums . The amounts alleged to have been misappropriated by him is only Rs. 29-13-0 No man of ordinary prudence would even risk his job after about 20 years of faithful service by dishonestly misappropriating the only sum of Rs. 29-13-9 . The facts of this case in 28 A.C. 1 1941 Madras 761 are similar to those in this case. It was held in that case that the retention of the amounts in the interval does not by itself justify a conviction under section 409 I P C [illegible]

B "With a view to put an end to such bonafide or malafide mistakes on the part of the Bill Collectors the Government have provided adequate and more effective checks in their order filed as Ex P 4 If the Officers solely charged with the duties of supervision of the work of the Bill Collectors had discharged their duties as laid down in the said Government Order, this unhappy case would not have occasioned This case throws abundant light into the working of the supervisory staff whose very existence is to guard against such mistakes on the part of the Bill Collectors The mistake in this case has escaped the notice of the Tax Clerk to join the post newly and his immediate section Head It is painful to note that the check in the office and supervision over the collection work of the Bill Collectors as contemplated in the Government Order Sec Exhibit P 4 seems to have been reduced to one of farce defeating the good intentions of the Government Such cases as this bring more discredit rather than credit to the Municipal Administration especially when adequate and more effective safeguards have been provided in the machinery of administration to guard against such cases It is fervently hoped that the authorities concerned will

that the authorities concerned will enforce the procedure laid down in the said Government Order by its very letter and spirit and help the smooth and efficient running of this part of the administration of the Municipality, and thereby save innocent Bill Collectors who might commit bonafide mistakes, from the ordeal of facing Trail

9 In the result I cannot ~~arrest~~ but come to the irrestiable conclusion that the accused is not at all guilty of the offence under Sec 409 I P C with which he is charged I therefore find him not guilty of the said ~~offence~~ offence acquit him honourably under Section 258(1) Cr P C of the said offence and direct that he be set at liberty as there is nothing to suggest any kind of moral delinquency on his part as disclosed by the evidence

10 Pronounced in open court 17th day of December 1954

Sd/B L Basavana Gowd 17-12-54

Ist Gaz Class Magistrate

P Ws exained :- Pw 1 Sri Subbhan Saib 2 P W 2 S Abdul Nabi P W 3 Husainappa P W 4 Thippaswami Revenue Officer P W 5 Sankara Gowd clerk Municipal Office P w 6 S Gopalakrishna Char Commisioner P W 7 C V Srinivasa Rawth S I of Police P W 8 Lakshmana Rao H C

D as Nil

Exhibits

Ex P 1/ Tax receipt granted to Abdul Rahiman
P 1 (a)/ Signature of the accused on Ex P 1
Ex P 2 / Tax Receipt granted to Nabi Sab
Ex P 2 (a) Signature of the accused on Ex P 2
Ex P 3 / Tax Receipt granted to Hursainappa
Ex P 3 (a) / Signature of the accused on Exhibit P 3
Ex P 4 / G O No 1224 dated 28-3-42
Ex P 5 / Challan Register
Ex P 6 / Challan at page 218 of Ex P 5
Ex P 7 / Copy of the Report of the Commissioner to Controller of State Accounts Bangalore

M O S Nil

/ True copy /

Md Sawer
10 / 55

Manager
9/2

M G S App F G 3]

MYSORE GOVERNMENT
SECRETARIAT

(*Continuation sheet draft form*)

:M 126-55-78

Proceedings of the Govt of Mysore
Read
Correspondence ending with letter
No RC C1 3515/54 dt 7 2 56
from the Pl Commr Bellary Cty
Mg forwarding for orders
Govt the appeal petition
together with the relevant
records relating to the dismissal
of Sri M Rama Setty Ex-Bz
Collector by the Commissioner
in his proceedings RC 3515/
dt 29 7 54 and requesting
that in view of the recommenda
of the Council and of the fact
of his acquittal on the charge
based against him, the Order
may be re-instated

Order No K 24-26 dt 2-4
Having regard to the judgment
passed by the First-Class
Magistrate acquitting the accused

WD 02 8—GPB—1ZS 1 20 000—1 7 5

PROCEEDINGS OF THE GOVERNMENT OF MYSORE

READ:-

Correspondence ending with letter No P C C1 3515/54 dated 7-2-1956, from the Municipal Commissioner, Bellary City Municipality, forwarding for orders of Government the appeal petition together with the relevant records relating to dismissal of Sri Mohamad Server, Ex-Bill Collector by the Commissioner in his proceedings R.C 3515/54 dated 20-7-54 and requesting that in view of the recommendation of the council and of the fact of his acquittal in the case filed against him, the official may be re-instated

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ORDER NO L. 24-26 | Cm 126-55-75-78

DATED, BANGALORE, The 2-6-1956.

Having regard to the judgment passed by the First Class Magistrate acquitting the accused Sri Mohamed Server, Ex-Bill Collector, Bellary Municipality, Government are pleased to direct that Sri Mohamed Server be reinstated

(V Hanumanthappa) 31/2
For Secretary to Government,
Education & L.S.G Departments

TO

The Commissioner for Local Self-Government in Mysore, Bangalore
The Municipal Commissioner, Bellary City Municipality,
(through the Special Officer, Bellary City Municipal Council) with records.
The Controller, State Accounts Department, Bangalore

MSR.6/31.3.

No L 27/ CM 126-55-79
D 2-4-58

The
Education & L S G Departments

The Municipal Commissioner, Bellary City Municipality,
thro' the Special Officer, Bellary Municipal Council

Sir,

Subject:- Appeal petition of Sri Mohamed Server, Ex-Bill Collector - Bellary City Municipality

-@-

In continuation of Government Order No L 24 26/CM 126-55-7[illegible] dated 2-4-56 ordering the re-instatement of Sri Mohamed Server, Ex-Bill Collector, Bellary City Municipality, I am directed to state that the learned Magistrate in his judgment has observed as follows:-

"With a view to put an end to such bonafide or malafide mistake on the part of the Bill Collectors the Government have provided adequate and more effective checks in their order filed as Ex. P 4 If the Officers solely charged with the duties of supervision of the work of the Bill Collectors, had discharged their duties as laid down in the said Government Order, this unhappy case would not have occasioned This case throws abundant light into the working of the Supervisory staff whose very existence is to guard against such mistak s on the part of the Bill Collectors It is painful to note that the check in the office and supervision over the collection work of the Bill Collectors as contemplated in the Government Order seems to have been reduced to one of force defeating the good intentions of the Government Such cases as this being more discredit rather than credit to the Municipal Administration especially when adequate and more effective safeguards are provided in the machinery of administration to guard against such cases " - (Extract from para 8 of the judgment)

I am to request you to take action departmentally to set right the slackness in the procedure which seems to be obtaining in the Municipality at the level of the Supervisory staff and see that the rules in this behalf are enforced and adhered to strictly

Yours faithfully,

31/3

(V Hanumanthappa)
For Secretary to Government,
Education & L S G Departments

HGN 2/31 3